

FLATHEAD COUNTY PLANNING AND ZONING OFFICE
JJN HOLDINGS, LLC
ZONING MAP AMENDMENT REPORT (#FZC-20-02)
FEBRUARY 24, 2020

I. GENERAL INFORMATION

A. Project Description

This is a report to the Flathead County Planning Board and Board of Commissioners regarding a request by JJN Holdings, LLC for a zoning map amendment within the Bigfork Zoning District. The proposed amendment, if approved, would change the zoning of the subject property from *SAG-5 Suburban Agricultural* to *I-1 Light Industrial*.

B. Application Personnel

1. Owner/Applicant

JJN Holdings, LLC
PO Box 1377
Bigfork, MT 59911

C. Process Overview

Documents pertaining to the zoning map amendment are available for public inspection in the Flathead County Planning and Zoning Office located in the South Campus Building at 40 11th Street West in Kalispell.

1. Land Use Advisory Committee/Council

The Bigfork Land Use Advisory Committee (BLUAC) will conduct a public hearing on the proposed zoning map amendment on February 27, 2020 at 4:00 P.M. at the Bethany Lutheran Church located at 8559 MT Highway 35 in Bigfork. A recommendation from the BLUAC will be forwarded to the Planning Board and County Commissioners for their consideration.

2. Planning Board

The Flathead County Planning Board will conduct a public hearing on the proposed zoning map amendment on March 11, 2020 at 6:00 P.M. in the second Floor Conference Room of the South Campus Building at 40 11th Street West in Kalispell, MT. A recommendation from the Planning Board will be forwarded to the County Commissioners for their consideration.

3. Commission

In accordance with Montana law, the Commissioners will hold a public hearing on April 21, 2020 on the proposed zoning map amendment. Prior to the Commissioner's public hearing, documents pertaining to the zoning map amendments will also be available for public inspection in the Office of the Board of Commissioners at 800 South Main Street in Kalispell.

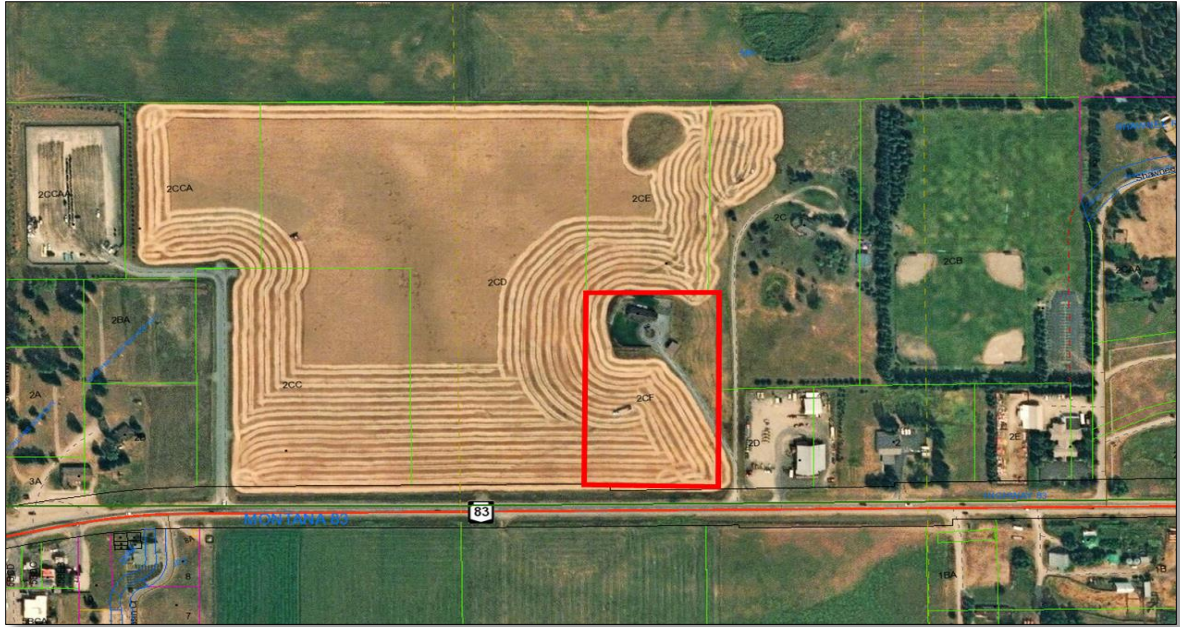
II. PROPERTY CHARACTERISTICS

A. Subject Property Location and Legal Description

The total acreage of the subject property is 5.884 acres and is located at 257 Highway 83, Bigfork, MT (see Figure 1 below). The subject property is legally described as:

Tract 2 of Certificate of Survey No. 13215, a tract of land in the Southwest Quarter of the Southeast Quarter of Section 13, Township 27 North Range 20 West, P.M.M., Flathead County, Montana.

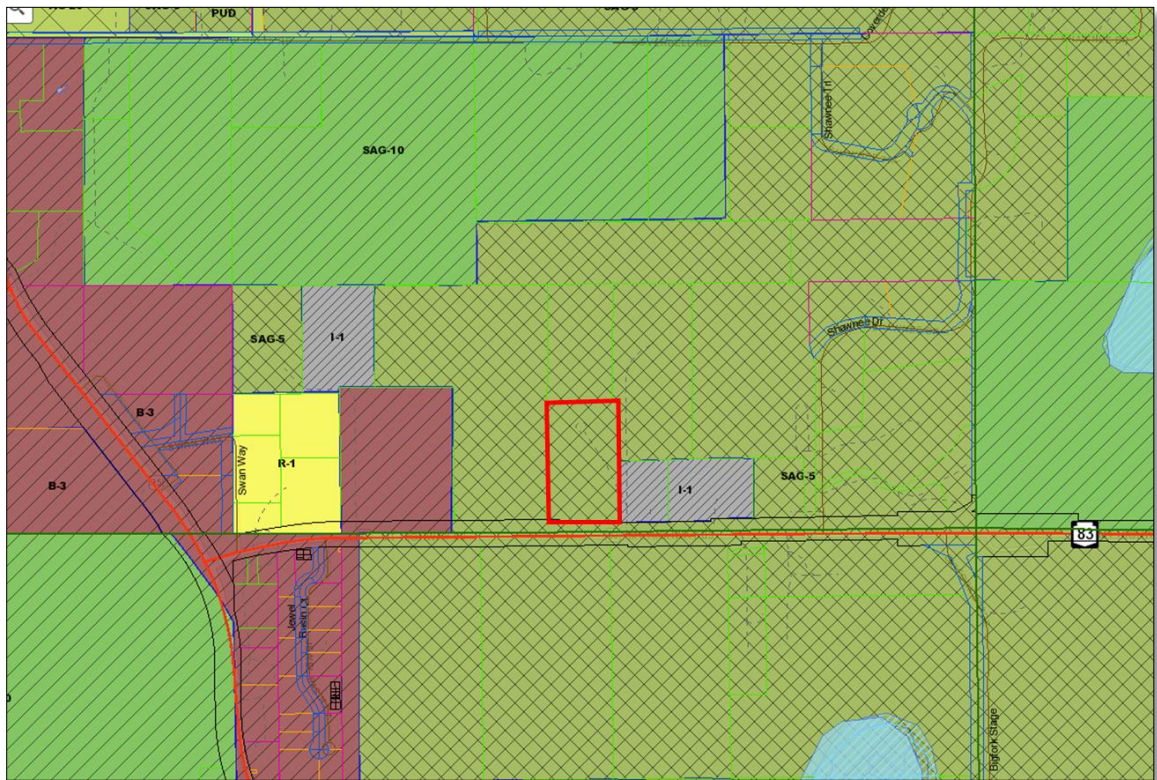
Figure 1: Subject property (outlined in red)



B. General Character of and Reason for Amendment

The subject property contains one tract of land owned by JJN Holdings, LLC. The property currently has a single family dwelling towards the northern property line and much of the rest of the lot has been used for agricultural production, along with properties to the west. As previously stated the property is currently zoned SAG-5 and the applicant is proposing I-1 because, “property next door is zoned I-1. A change in zoning will allow us to build our company yard and office. Construction company.”

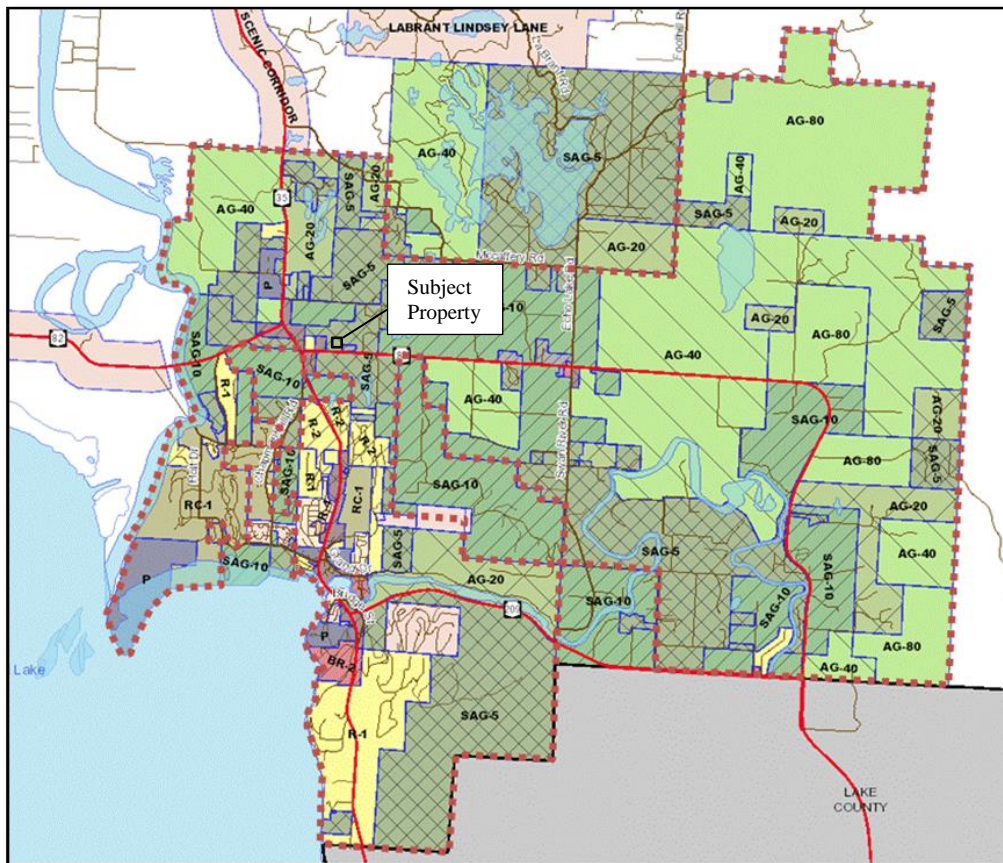
Figure 2: Surrounding zoning of the subject property (outlined in red)



C. Adjacent Zoning and Character of the Overall Zoning District

The property is located in the Bigfork Zoning District approximately 1/3 mile from the intersection of Highway 83 and Highway 35. The character of the zoning district in the vicinity of the subject property is a combination of suburban agricultural and agricultural uses to the north and south with a small area of industrial zoning/use immediately to the east, and a commercial node of B-3, I-1, and R-1 at the intersection of Highway 83 and Highway 35. Much of the surrounding properties are large lot residential, undeveloped or being used for agriculture with the exception of the commercial uses which include Bigfork Rentals, Martel Construction, The Flathead County green box site, Real Life Church, the Liquor Barn, Your Turn convenience store and gas station, and the Jewel Basin office and apartment complex.

Figure 3: Bigfork Zoning District (outlined with red dotted line & subject property outlined in black)



Public Services and Facilities

Sewer: N/A
 Water: N/A
 Electricity: Flathead Electric Cooperative
 Natural Gas: Northwestern Energy
 Telephone: CenturyTel
 Schools: Bigfork School District
 Fire: Bigfork Fire District
 Police: Flathead County Sheriff

III. COMMENTS

A. Agency Comments

1. Agency referrals were sent to the following agencies on January 28, 2020:
 - Bonneville Power Administration
 - Montana Fish Wildlife and Parks
 - Bigfork High School District
 - Bigfork School District
 - Bigfork Fire District
 - Flathead City-County Health Department
 - Flathead County Road and Bridge Department
 - Flathead County Sheriff

- Flathead County Solid Waste
 - Flathead County Weeds and Parks Department
 - Montana Department of Transportation
2. The following is a summarized list of agency comment received as of the date of the completion of this staff report:
- Flathead City-County Environmental Health Department
 - Comment: “No comment.” Hand delivered 1/31/2020
 - Flathead County Solid Waste District
 - Comment: “The District requests that all solid waste generated at the proposed location be hauled by a private licensed hauler. Republic Services is the Licensed (PSC) Public Service Commission licensed hauler in this area. Their business phone number is 406-676-4330.” Letter dated February 13, 2020
 - Flathead County Road and Bridge Department
 - Comment: “At this point the County Road Department does not have any comments on this request.” Letter dated February 4, 2020

B. Public Comments

1. Adjacent property notification regarding the proposed zoning map amendment was mailed to property owners within 150 feet of the subject property on February 21, 2020. Legal notice of the Planning Board public hearing on this application will be published in the February 23, 2020 edition of the Daily Interlake.

Public notice of the Board of County Commissioners public hearing regarding the zoning map amendment will be physically posted on the subject property and within the zoning district according to statutory requirements found in Section 76-2-205 [M.C.A]. Notice will also be published once a week for two weeks prior to the public hearing in the legal section of the Daily Interlake. All methods of public notice will include information on the general character of the proposed zoning map amendment, and the date, time, and location of the public hearing before the Flathead County Commissioners on the requested zoning map amendment.

2. Public Comments Received

As of the date of the completion of this staff report, no public comments have been received regarding the requested zoning map amendment. It is anticipated any member of the public wishing to provide comment on the proposed zoning map amendment may do so at the Bigfork Land Use Advisory Committee public hearing scheduled for February 27, 2020, the Planning Board public hearing scheduled for March 11, 2020 and/or the Commissioner’s public hearing scheduled for April 21, 2020. Any written comments received following the completion of this report will be provided to members of the Planning Board and Board of Commissioners and summarized during the public hearing(s).

IV. EVALUATION OF PROPOSED AMENDMENT

Map amendments to zoning districts are processed in accordance with Section 2.08 of the Flathead County Zoning Regulations. The criteria for reviewing zoning amendments are found in Section 2.08.040 of the Flathead County Zoning Regulations and 76-2-203 M.C.A.

A. Build-Out Analysis

Once a specific zoning designation is applied in a certain area there are certain land uses that are permitted or conditionally permitted. A build-out analysis is performed to examine the maximum potential impacts of full build-out of those uses. The build-out analysis is typically done looking at maximum densities, permitted uses, and demands on public services and facilities. Build-out analyses are objective and are not best or worst case scenarios. Without a build-out analysis to establish a foundation of understanding, there is no way to estimate the meaning of the proposed change to neighbors, the environment, future demands for public services and facilities and any of the evaluation criteria, such as impact to transportation systems. Build-out analyses are simply establishing the meaning of the zoning map amendment to the future of the community to allow for the best possible review.

The I-1 designation is defined in Section 3.27.010 FCZR as, *'A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein.'*

The proposed amendment from SAG-5 to I-1 zoning would increase the number of permitted uses from 16 to 50 while reducing the number of conditional uses from 28 to 17.

There are no SAG-5 permitted uses listed as a conditional uses in the proposed I-1 zone.

The following are permitted uses in the SAG-5 zone that are not permitted in I-1.

- Agricultural/horticultural/silvicultural use
- Class A and Class B manufactured homes
- Cluster housing
- Day care home
- Dwelling, single family
- Dwelling unit, accessory (ADU)
- Guest House
- Home occupation
- Homeowner's park and beaches
- Produce stand
- Stable, private

The following are conditional uses within the SAG-5 zone but not allowed in I-1:

- Airfield
- Aircraft hangars when in association with properties within or adjoining an airport/landing field
- Bed and breakfast establishment
- Camp and retreat center
- Caretakers facility
- Cemetery, mausoleum, columbarium, crematorium
- Community center building operated by a non-profit agency
- Community residential facility
- Dwelling, family hardship

- Extractive industry
- Golf course
- Kennel, commercial
- Manufactured home park
- Riding academy and rodeo arena
- School, primary and secondary
- Short term rental housing
- Stable, public
- Water and sewage treatment plant

The conditional uses allowed within the I-1 but not allowed in SAG-5 are:

- Auction yard
- Automobile wrecking yard, junkyard, salvage yard
- College, business school, trade school, music conservatory, dance school
- Commercial caretaker's facility in a detached accessory building in conjunction with a business
- Commercial recreation area
- Communication tower/mast
- Convention hall facility
- Golf putting course
- Landfill, sanitary for disposal of garbage and trash
- Mini storage, RV storage
- Mortuary
- Radio and television broadcast station
- Recycling processing plant
- Small wood product processing with five (5) or less employees
- Tavern

The bulk and dimensional requirements within the current SAG-5 zoning require a 20 foot setback from front, rear, side-corner and side boundary line for principal structures and a setback of 20 feet for the front and side-corner and 5 feet from the rear and side for accessory structures. The bulk and dimensional requirements within the proposed I-1 zoning require a 20 feet setback from the front, side corner and rear and 10 feet from the side. A 20 foot setback is required from streams, rivers and unprotected lakes which do not serve as property boundaries for both zoning designations while an additional 20 foot setback is required from county roads classified as collector or major/minor arterials for the current zoning and the proposed zoning. For SAG-5 the permitted lot coverage is 25% and maximum height is 35 feet and for I-1 the permitted lot coverage is not applicable with a maximum height of 40 feet.

The existing zoning requires a minimum lot area of 5 acres. The subject property totals 5.884 gross acres, no additional lots could be created under the existing zoning. The proposed I-1 zoning requires a minimum lot area of 7,500 square feet therefore approximately 26 additional lots could be created given the assumption that 10% of the property would be dedicated to infrastructure requirements. The requested zone change to I-1 has the potential to increase density through subsequent subdivision in the future.

B. Evaluation of Proposed Amendment Based on Statutory Criteria (76-2-203 M.C.A. and Section 2.08.040 Flathead County Zoning Regulations)

1. Whether the proposed map amendment is made in accordance with the Growth Policy/Neighborhood Plan.

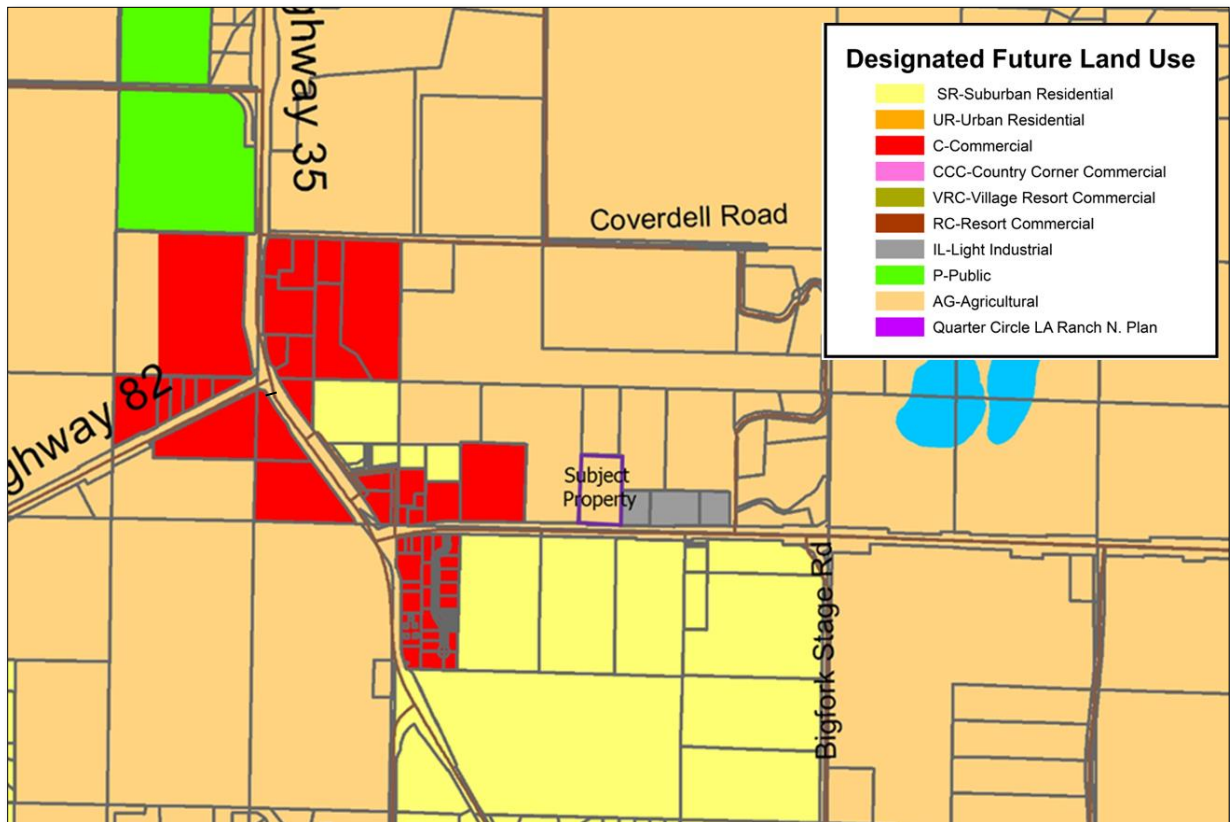
The proposed zoning map amendment falls within the jurisdiction of the Flathead County Growth Policy, adopted on March 19, 2007 (Resolution #2015 A) and updated October 12, 2012 (Resolution #2015 R). Additionally the property is located within the Bigfork Neighborhood Plan, adopted on June 2, 2009 by the Flathead County Commissioners (Resolution #2208).

Because the property is located in the Bigfork Neighborhood Plan which was adopted as an addendum to the Growth Policy, land use decisions in the Bigfork Neighborhood Plan area should be guided by the neighborhood plan. The Executive Summary of the Growth Policy states, *"Land use decisions guided by a neighborhood plan should reflect a community's vision of how they intend to grow in the future. In the absence of a neighborhood plan, land use decisions are guided by the growth policy and existing regulatory documents, as applicable."* Part 3 of the Preface of the Growth Policy states, *"Neighborhood plans are an important tool for local planning at a level of detail that does not appear in the county-wide growth policy."*

The Neighborhood Plan designates the land use of the subject property as 'AG-Agricultural.' Part V Land Uses and Natural Resources defines and states, *'Agricultural Lands - designated areas for agricultural production should be protected from the encroachment of residential and other more intensive development. Schools, fire stations, and parks are appropriate in this designation. Zoning designations in these areas range from Suburban Agriculture (SAG) 5 to Agriculture (AG) 80. This spectrum of zoning designations should be applied in a manner that implements the goals and policies of the plan in areas designated as AG on Map 10.'*

It should be noted that the subject property is located immediately to the east of property which the Neighborhood Plan designates as 'Light Industrial'. Part V Land Uses and Natural Resources defines 'Light Industrial' as, *"Light Industrial - applies to areas of light industrial use in proximity to major transportation routes. Typical uses would be manufacturing and processing centers, gravel extraction/processing, and product distribution centers, but only when not in proximity to residential areas and where safety, esthetics, or quality of life would be adversely impacted. I-1 and I-1H are examples of zoning for this area, depending on the proximity to a major highway. There are no locations within the Bigfork Neighborhood Plan area that are appropriate for heavy industry based on the goals and policies of the Flathead County Growth Policy."*

Figure 4: Bigfork Neighborhood Plan Future Land Use Map (Subject property outlined in purple)



The following goals and objectives of the Neighborhood Plan appear applicable to the proposed Neighborhood Plan map amendment, and generally indicate consistency with the proposal:

❖ **G.2 - Support growth and development in the BPA in a way that protects the character of the area and its natural resources.**

- The property is located in an area designated as Agricultural and the property has historically been used for agriculture. However, the property is situated between property shown on the Future Land Use Map as 'Light Industrial' to the east and 'Commercial' to the west along the Highway 83 corridor. While the zone change would reduce the amount of 'Agricultural' designated land, the adjacent designations indicate compatibility with the character of the area.

○ **P.2.2 - Alternative economic development should be supported but not to the detriment of the quiet enjoyment of the residents within the BPA.**

The proposed zone change to I-1 would allow the development of the planned construction company yard and office. While the property currently has a single family dwelling and is partially used for agriculture, the applicants note that there are other commercial uses, including an adjacent construction company, within the vicinity. Because of the similar adjacent uses, and compatibility of most light industrial uses with agricultural use, it does not

appear that the proposal would be allowed to the detriment of adjacent properties.

- ❖ **G.3** – *Infrastructure must be sufficiently developed to support population growth and economic development.*
 - The subject property is accessed by Highway 83 which is a two lane MDT maintained highway. The road system appears to be appropriate to accommodate traffic of the I-1 uses in a safe manner.
 - **P.8.4** - *Prevent construction in flood plains, wetlands and natural drainage areas. Recommend development to conform to terrain, and minimize grading on steep slopes to prevent scarring and erosion.*
 - The property is generally flat and does not contain wetlands, mapped floodplains or identified natural drainage areas. There are no steep slopes or the appearance of land unsuitable for development.
- ❖ **G.9** – *Accommodate future commercial development within downtown Bigfork and the commercial area.*
 - **P.9.2** – *Discourage strip development and commercial clutter along arterial highways.*
 - **P.9.3** – *Transportation corridors should maintain the continued visual enjoyment of both the well-tended agricultural lands and the natural beauty of the area, and provide unimpeded traffic flow.*
 - The proposed zone change would convert an existing agricultural field into a 5.884 acre industrial lot located along Highway 83. However, it should be noted that the subject property is a little over 500 feet from the BNP Future Land Use Map designated commercial node and the proposed I-1 would be next to an existing I-1 zoned area.
- ❖ **G.12** - *Maintain the intimacy and human scale of the village atmosphere in the existing Bigfork commercial area, while providing residents with needed services and goods. Prevent strip development and commercial clutter along arterial highways. Development should be designed to have minimal impact on transportation corridors and scenic areas. Development shall not impede traffic flow.*
 - **P.12.1** - *Commercial development uses, as defined in the Flathead County Zoning Regulations, should be concentrated in existing commercial nodes and at major intersections of arterial routes. Light and heavy industrial uses shall be so located.*
 - As previously state, the property is designated as ‘Agricultural’ on the Bigfork Neighborhood Plan Future Land Use Map. However, it should be noted that the property is located between property designated for ‘Industrial’ and ‘Commercial’ use and this zone change would simply allow for infill of commercial/industrial uses along Highway 83 at an established commercial node.
- ❖ **G.19** - *Encourage development to follow an overall design that is consistent with the nature, quality, and density of surrounding development.*

- The property is currently zoned SAG-5, adjacent property used for agriculture to the north, west, and south, and industrial uses to the east. The proposed zone change would reduce the amount of land used for agriculture but would not be allowed to the detriment of adjacent property owners because of the existing nearby light industrial and commercial uses, such as the existing Martel Construction office which is similar to what the applicant is proposing.

Finding #1: The proposed zoning map amendment generally complies with the Bigfork Neighborhood Plan because applicable goals, policies and text appear to generally support the request, and while the proposed I-1 zoning is not described as an appropriate zoning implementation for the ‘*Agricultural*’ designation, it is in close proximity to both ‘*Commercial*’ and ‘*Light Industrial*’ designations.

2. Whether the proposed map amendment is designed to:

a. Secure safety from fire and other dangers;

The subject property is located within the Bigfork Fire District and the nearest Bigfork Volunteer Fire Station is located approximately 2.8 road miles south of the property on Grand Drive. The Bigfork Volunteer Fire Department would respond in the event of a fire or medical emergency. The subject property is located within the Wildland Urban Interface (WUI) but is not within a fire district priority area. The application states, “The property does not include large vegetation or fire hazards.” The Bigfork Volunteer Fire Department did not provide comments on this proposal.

The subject property is located off Highway 83, a paved two lane, MDT maintained highway. The highway and paved access appears adequate to provide ingress and egress for emergency services.

According to FEMA FIRM Panel 30029C2305J, the property is located within an unshaded Zone X an area determined to be outside the 0.2% annual chance flood hazard.

Finding #2: The proposed map amendment will not impact safety from fire and other danger because the property is located on a state-maintained highway which is capable of providing emergency access, is not located in a fire district priority area, the property does not contain any floodplain or thick vegetation requiring thinning, and the Bigfork Volunteer Fire Department did not submit comment on this proposal.

b. Promote public health, public safety, and general welfare;

As previously stated, the Bigfork Fire Department would respond in the event of a fire or medical emergency. The Flathead County Sheriff’s Department currently provides and will continue to provide police services to the subject property. Highway 83 is a paved, MDT-maintained collector road that would appear adequate to provide access for emergency service which would help to ensure adequate public health and safety.

According to the applicant and the Certificate of Subdivision Approval (COSA), the subject property is served by an individual well and a septic system. While the

Environmental Health Department did not issue a comment, a change in use would likely require re-review of the COSA when the change of use occurs.

As noted in the build out analysis, the I-1 zoning would be substantially different than the current SAG-5. The I-1 zoning is described as, “*A district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. It is also intended that the encroachment of non-industrial uses within the district be prevented other than those listed herein.*” It should be noted that the subject property is adjacent to existing I-1 zoned properties and uses similar to that proposed by the application. The zone change would extend this area of I-1 in a location that is served by adequate access and emergency services.

Finding #3: The proposed zoning map amendment would likely not have a negative impact on public health, public safety and general welfare because the property is served by the Bigfork Fire Department and the Flathead County Sheriff, adequate access exists for emergency service vehicles, and the I-1 zoning would allow for similar uses to what already exist in the area.

c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

As previously stated, the subject property is located on Highway 83, a paved two lane, MDT maintained highway and there is an existing shared driveway along the eastern property line. The applicants indicate that the property will be used for a construction company office and storage area with approximately two employees. The existing house on the property could be used as a commercial caretaker facility in the proposed I-1 zone. Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling. According to the ITE Trip Generation Manual 5th Edition “General Light Industrial” generates approximately 51.80 average daily trips per acre for a weekday. The subject property is 5 acres therefore the property has the potential to generate 304 average daily trips, although the applicant’s specific proposal may generate less traffic. The most recent traffic counts from 2018 for Highway 83 near the property indicate an Average Daily Traffic (AADT) of 4,364 trips per day. The average daily trips estimated as a result of the zone change would result in a potential increase of approximately 7% on Highway 83.

The Flathead County Road Department indicated no comments regarding the proposal. The Montana Department of Transportation also did not provide a comment on the proposal, however they commonly explain that an updated approach permit would be required if a change in use occurs on the property that would impact the existing approach.

The application states, “Water is supplied by the existing well located on this property. The existing septic will accommodate the additional bathroom that will be in the office.” It should be noted that the property was reviewed by the MT Department of Environmental Quality and a COSA was issued in 1997 for the property allowing a single family dwelling. Any change in use will likely require

re-review by the DEQ to ensure the future use will have adequate water, wastewater, and stormwater mitigation. The property is currently not within the boundary of the Bigfork Water and Sewer district but future annexation would require the property owner to bear their proportional share of extension costs.

For the proposed I-1 zoning, is not anticipated school aged children will be generate given its permitted and conditional uses.

There are many parks, natural areas, and recreational opportunities within a short drive and the property is not likely to effect the adequate provision of parkland.

Finding #4: The proposed amendment would facilitate the adequate provision of transportation because property is accessed via Highway 83 which is a two lane, MDT-maintained collector road that would be able to accommodate traffic of uses allowed within the I-1 zone, the Montana Department of Transportation would likely require an updated approach permit for the new use and the County Road and Bridge Department had no concerns with the proposal at this time.

Finding #5: The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because further division of land on the subject property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, there would be minimal impact on parks or the Bigfork School District as the zone change to I-1 would not create additional residential uses.

3. In evaluating the proposed map amendment, consideration shall be given to:

a. The reasonable provision of adequate light and air;

The proposed I-1 zoning has a minimum lot size of 7,500 square feet and has no applicable lot coverage limits. Setbacks in the I-1 zone are 20 feet from the front, rear and side corner, and 10 feet from the side. The setbacks and area of a lot which can be covered for the proposed zone are less restrictive than the existing zoning, however, the bulk and dimensional requirements for the I-1 designation have been established to provide for the reasonable provision of light and air.

Finding #6: The proposed zoning map amendment would appear to provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements within the proposed I-1 designation.

b. The effect on motorized and non-motorized transportation systems;

As previously stated, the subject property is accessed from Highway 83, a paved two lane, MDT maintained highway. The property is accessed via a shared approach and the applicants explain, “the existing driveway approach from Highway 83 is adequate for the traffic we will have entering the property. The driveway and approach is located on this property.” While MDT did not provide a comment on the proposed zone change, a change in use usually requires an updated approach permit.

The applicants indicate that the property will be used for a construction company office and storage area with approximately two employees. The existing house on the property could be used as a commercial caretaker facility in the proposed I-1

zone. Using standard trip generation, residential uses typically generate 10 vehicle trips per dwelling. According to the ITE Trip Generation Manual 5th Edition “General Light Industrial” generates approximately 51.80 average daily trips per acre for a weekday. The subject property is 5 acres therefore the property has the potential to generate 304 average daily trips, although the applicant’s specific proposal may generate less traffic. The most recent traffic counts from 2018 for Highway 83 near the property indicate an Average Daily Traffic (AADT) of 4,364 trips per day. The average daily trips estimated as a result of the zone change would result in a potential increase of approximately 7% on Highway 83. Concerning non-motorized traffic, Appendix M of the Flathead County Trails Plan designated Highway 83 as a potential connector trail route.

Finding #7: Effects on motorized transportation systems will be minimal because there would be a potential 7% increase of traffic on Highway 83 and the Montana Department of Transportation would likely require an updated approach permit for the new use.

Finding #8: Effects on the non-motorized transportation systems will be minimal because the property will be located along Highway 83 which is an collector road designated as a potential bike and pedestrian path route in the future.

c. Compatible urban growth in the vicinity of cities and towns (that at a minimum must include the areas around municipalities);

The village of Bigfork, which is not an incorporated municipality, is located approximately 1.75 miles south of the subject property.

The proposed zoning map amendment appears compatible with urban growth of the Bigfork Planning Area (BPA) as described in the Bigfork Neighborhood Plan because while both the proposed I-1 zoning is not described as an appropriate zoning implementation for the ‘Agricultural’ designation in the Bigfork Neighborhood Plan, it is adjacent to property designated for ‘Industrial Uses’ and currently zoned I-1, and the lot is located in an area with infrastructure that the plan denotes for new industrial uses.

The incorporated City of Kalispell, which is the nearest municipality, is located approximately 11.5 miles northwest of the subject property. The proposed zoning map amendment will not have an impact on urban growth of Kalispell.

Finding #9: The proposed zoning map amendment would be compatible with current urban growth in the Bigfork area because, although the proposed I-1 zoning is not described as an appropriate zoning implementation for the ‘Agricultural’ designation in the Bigfork Neighborhood Plan, it is adjacent to property designated for ‘Industrial Uses’ and currently zoned I-1, and the lot is located in an area with infrastructure that the plan denotes for new industrial uses.

Finding #10: The proposed zoning map amendment would not affect urban growth in the vicinity of Kalispell because the map amendment is located outside the area of influence of the City of Kalispell.

d. The character of the district(s) and its peculiar suitability for particular uses;

The character of the district and its peculiar suitability for particular uses can best be addressed using the “three part test” established for spot zoning by legal precedent in the case of *Little v. Board of County Commissioners*. Spot zoning is described as a provision of a general plan (i.e. Growth Policy, Neighborhood Plan or Zoning District) creating a zone which benefits one or more parcels that is different from the uses allowed on surrounding properties in the area. Below is a review of the three-part test in relation to this application and the character of the district and its peculiar suitability for particular uses.

i. ***The zoning allows a use that differs significantly from the prevailing use in the area.***

The intent of the current ‘SAG-5 Suburban Agricultural’ zone is to provide and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging separation of such uses in areas where potential conflict of uses will be minimized, and to provide areas of estate-type residential development. The proposed ‘I-1 Light Industrial’ zone is a district to provide areas for light industrial uses and service uses that typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond the lot lines. While the SAG-5 and I-1 zones are substantially different, the subject property is located between suburban agricultural and agricultural uses to the north and south, a 5.37 acre area of industrial zoning/use immediately to the east, and a commercial node of B-3, I-1, and R-1 at the intersection of Highway 83 and Highway 35 (Figure 2). The subject property would expand the existing I-1 zoning immediately to the east and would therefore allow uses that currently exist in the area.

ii. ***The zoning applies to a small area or benefits a small number of separate landowners.***

The zoning map amendment would apply to one tract of land owned by one landowner covering 5.884 acres.

iii. ***The zoning is designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public and, thus, is in the nature of special legislation.***

The zoning map amendment would apply to one parcel for the benefit of one landowner; this zoning map amendment may be at the expense of the landowners to the north, south, and west because of the contrast in minimum lot area allowed. The requested map amendment to I-1 would alter the use and minimum lot size permissible on the subject property. In the event the subject properties were subsequently developed to the greatest build-out possible, a higher overall density development than currently established in the area would be allowed than that permitted on adjacent zoned properties. However, the adjacent properties to the east are zoned I-1 and this zone change would simply expand this node of industrial zoned property towards the west, an established commercial node at the intersection of Highway 82 and Highway 83. Although the zoning map amendment would benefit only one landowner, it does not appear to be at the expense of all the surrounding landowners and general public given the nature of the larger scope of zoning in the area.

In summary, all three criteria must be met for the application to potentially be considered spot zoning. The proposed zoning map amendment does not appear to be at risk of spot zoning, as it does not appear to meet all three of the criteria.

Finding #11: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because, although the property consists of one tract owned by one property owner, the proposed zone change would expand an existing light industrial zoning district and allow for similar uses existing on adjacent property.

e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

As previously stated, the definition of I-1 specifically addresses appropriateness of that zoning designation and impacts on adjacent property, specifically allowing uses that “typically do not create objectionable by-products (such as dirt, noise, glare, heat, odors, smoke, etc.), which extend beyond lot lines.” The property is located with access to Highway 83 which is appropriate for adequate access to commercial and light industrial uses. The property to the east is also zoned I-1 and light industrial uses with minimal by-products impacting adjacent properties would appear to be appropriately located beside agricultural uses. The proposal is not likely to impact values of buildings and would likely encourage the most appropriate use of the land in the area.

Finding #12: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the subject property is in close vicinity to both B-3 and I-1 zoning designations and similarly sized properties and would not be situated near incompatible residential uses.

4. Whether the proposed map amendment will make the zoning regulations, as nearly as possible, compatible with the zoning ordinances of nearby municipalities.

The location of the proposed zoning map amendment is approximately 11 miles southeast of the nearest municipality of Kalispell and is not included within the City of Kalispell Growth Policy Future Land Use Map, adopted by the City of Kalispell in 2003. The city of Kalispell’s zoning designation is a comparable zoning designation to the county zoning designation of I-1.

Finding #13: The proposed map amendment is not within the City of Kalispell Growth Policy Future Land Use Map and is over 11 miles from the subject property, however the proposed I-1 is comparable to the city zoning designation of I-1.

V. SUMMARY OF FINDINGS

Finding #1: The proposed zoning map amendment generally complies with the Bigfork Neighborhood Plan because applicable goals, policies and text appear to generally support the request, and while the proposed I-1 zoning is not described as an appropriate zoning implementation for the ‘*Agricultural*’ designation, it is in close proximity to both ‘*Commercial*’ and ‘*Light Industrial*’ designations.

Finding #2: The proposed map amendment will not impact safety from fire and other danger because the property is located on a state-maintained highway which is capable of providing emergency access, is not located in a fire district priority area, the property does not contain any floodplain or thick vegetation requiring thinning, and the Bigfork Volunteer Fire Department did not submit comment on this proposal.

Finding #3: The proposed zoning map amendment would likely not have a negative impact on public health, public safety and general welfare because the property is served by the Bigfork Fire Department and the Flathead County Sheriff, adequate access exists for emergency service vehicles, and the I-1 zoning would allow for similar uses to what already exist in the area.

Finding #4: The proposed amendment would facilitate the adequate provision of transportation because property is accessed via Highway 83 which is a two lane, MDT-maintained collector road that would be able to accommodate traffic of uses allowed within the I-1 zone, the Montana Department of Transportation would likely require an updated approach permit for the new use and the County Road and Bridge Department had no concerns with the proposal at this time.

Finding #5: The proposed amendment would facilitate the adequate provision of water, sewerage, schools, parks, and other public requirements because further division of land on the subject property would require review through the Flathead City-County Health Department and the Montana Department of Environmental Quality, there would be minimal impact on parks or the Bigfork School District as the zone change to I-1 would not create additional residential uses.

Finding #6: The proposed zoning map amendment would appear to provide adequate light and air to the subject property because future development would be required to meet the bulk and dimensional requirements within the proposed I-1 designation.

Finding #7: Effects on motorized transportation systems will be minimal because there would be a potential 7% increase of traffic on Highway 83 and the Montana Department of Transportation would likely require an updated approach permit for the new use.

Finding #8: Effects on the non-motorized transportation systems will be minimal because the property will be located along Highway 83 which is an collector road designated as a potential bike and pedestrian path route in the future.

Finding #9: The proposed zoning map amendment would be compatible with current urban growth in the Bigfork area because, although the proposed I-1 zoning is not described as an appropriate zoning implementation for the 'Agricultural' designation in the Bigfork Neighborhood Plan, it is adjacent to property designated for 'Industrial Uses' and currently zoned I-1, and the lot is located in an area with infrastructure that the plan denotes for new industrial uses.

Finding #10: The proposed zoning map amendment would not affect urban growth in the vicinity of Kalispell because the map amendment is located outside the area of influence of the City of Kalispell.

Finding #11: The proposed zoning map amendment appears suitable for the character of the district and does not appear to constitute spot zoning because, although the property consists

of one tract owned by one property owner, the proposed zone change would expand an existing light industrial zoning district and allow for similar uses existing on adjacent property.

Finding #12: This proposed zoning map amendment appears to conserve the value of buildings and encourage the most appropriate use of land in this location because the subject property is in close vicinity to both B-3 and I-1 zoning designations and similarly sized properties and would not be situated near incompatible residential uses.

Finding #13: The proposed map amendment is not within the City of Kalispell Growth Policy Future Land Use Map and is over 11 miles from the subject property, however the proposed I-1 is comparable to the city zoning designation of I-1.

VI. CONCLUSION

Per Section 2.08.020(4) of the Flathead County Zoning Regulations (FCZR), a review and evaluation by the staff of the Planning Board comparing the proposed zoning map amendment to the criteria for evaluation of amendment requests found in Section 2.08.040 FCZR has found the proposal to generally comply with the review criteria, based upon the draft Findings of Fact presented above. Section 2.08.040 does not require compliance with all criteria for evaluation, only that the Planning Board and County Commissioners should be guided by the criteria.

Planner: RE